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人民币汇率操纵法律问题研究
——以国际货币基金协定为视角

The Legal Research Of RMB Exchange Rate Manipulation
——Based On The IMF Agreement

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内容摘要

自从美国次贷危机爆发以后，以美国为首的西方国家国内经济增长乏力，失业率居高不下，国内贸易保护主义倾向有所抬头，人民币汇率问题又一次成了他们攻击中国的口实。在以美国为首的西方国家联手指责所谓中国人民币汇率操纵，并集体施压人民币升值的背景下，认真研究国际货币法中有关汇率操纵问题的规定，从国际法的层面做一个理性适当的回应，无疑是一个极具意义的课题。

本文通过认真研究国际货币基金协定（IMF 协定）等相关的国际条约，针对以美国为首的西方国家假借所谓人民币“汇率操纵”之名，行贸易保护之实的行为，从国际法的层面上加以驳斥，阐明中国的汇率制度符合我国在 IMF 协定项下的义务，中国并没有操纵人民币汇率。

本文共分为五个部分。第一章介绍汇率的概念、产生原因、种类、汇率的国际法律制度。通过这一部分的介绍，为接下来有关人民币汇率的合法性论述做铺垫。第二章试图厘清 IMF 和 WTO 对各国汇率制度的管辖权问题。正确的管辖权归属界定是本文探讨人民币汇率操纵问题的前提条件。第三章研究美国指责中国进行汇率操纵的原因和背后的目的，一旦中国构成汇率操纵，人民币汇率大幅升值对中国的宏观经济形势、就业乃至社会稳定方面的不利影响。在这方面，我们要充分吸取日本签订《广场协议》的经验教训，分析日元升值对人民币升值带来的警示。第四章是本文的关键部分。本章分别从 IMF 协定第 4 条、第 8 条、第 14 条规定以及其他国际货币基金组织文件的视野出发，论述人民币汇率并没有被操纵，中国恰当履行了 IMF 协定的条约义务。第五章是本文的创新部分。虽然我国并没有操纵人民币汇率，但是我国现行的汇率制度还存在着不少问题，主要是市场化程度不足等。本文针对目前我国人民币汇率制度存在的问题，分别提出了相应的解决和完善建议。

关键词：汇率制度；汇率操纵；不公平优势

ABSTRACT

Since the subprime crisis broke out in America, the sluggish growth of domestic economy, obstinately high unemployment and a rising wave of trade protectionism turmoils the US-led western countries, which make RMB exchange rate become an powerful excuse to attack China. Therefore, it can be a doubtless and meaningful subject by close attention to the regulations about International Monetary Law on manipulating exchange rate and to show a reasonable response from international law at the background of collecting power to denounce and exert upward pressure on RMB. On basis of all this, this thesis takes a serious research on Agreement of IMF and relevant international treaties to utter condemnation and refutation of the trade protection behavior of the US-led western countries which in the name of RMB exchange rate manipulation. And also the exchange rate regime which are in conformity with the obligation under Agreement of IMF are setting forth in thesis to testify no any manipulation of RMB exchange rate.

The thesis consists of five parts. The opening chapter introducing the conception, cause, variety and international law regime of exchange rate is to do foreshadowing for following legitimacy statement on exchange rate and chapter two is to straighten out IMF and WTO' s attitude towards to jurisdiction of each country' s exchange rate regime. The exactitude definition of jurisdiction is a prerequisite for exploring RMB exchange rate manipulation issue. Then a careful consider will be taken in chapter three to analyze the cause and purpose of America accusing China of manipulating exchange rate. And a quesiton worthy of consideration is that the accusation once established, some adversely effects such as China marco-economic situation, obtain employment and social stability appear in the wake of RMB exchange rate appreciation, which call on us to learn lesson from analyzing Japan' s misplay when it cope

with the “Plaza Accord” and to serve as a reminder for China’ s RMB appreciation. With gaining insights into the Section four, eight and fourteen of Agreement of IMF and other IMF documents, chapter four, is the critical part, which amplifies the fulfillment of obligation of China under Agreement of IMF without manipulating RMB exchange rate. As for chapter five, it’ s a shining and innovative point which mainly indicates present market-oriented problem in current exchange rate regime. Last but not least, some solutions and suggestions are specifically presented in this thesis for resolving the existing problem of China’ s RMB exchange rate regime.

Key Words: Exchange Rate Regime; Exchange Rate Manipulation; Unfair Advantages

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